

### **Remarks**

Applicants have carefully reviewed the Office Action mailed on July 17, 2008 and Advisory Action of September 30, 2008. Applicants respectfully traverse (and do not concede) all objections, rejections, adverse statements, and adverse assertions made by the Examiner. With this amendment, claim 1 amended. No new matter is added. Claims 1-10 remain pending. This amendment is being filed with a Request for Continued Examination.

### **Claim Rejections Under 35 U.S.C. §102**

Claims 1-4 and 6-9 are rejected under 35 U.S.C. §102(b) as being anticipated by Tomonto in U.S. Patent No. 6,425,855. Applicants note that this rejection does not include claim 10. However, immediately after the rejection, the Examiner made reference to claim 10. Applicants assume that the Examiner intended to reject claims 1-4 and 6-10 under these grounds.

Applicants respectfully traverse this rejection and, in particular, the Examiner's apparent interpretation of the word "encased". However, in the interest of furthering prosecution, claim 1 is amended to recite that an outer member surrounding and encasing the inner member. Tomonto does not appear to teach or suggest an outer member surrounding an inner member as claimed. For example, and as indicated by the Examiner, Tomonto only appears to teach or suggest "the outer plastically deformable layer as sandwiching the inner superelastic material". (emphasis added). Based on this distinction, Applicants respectfully submit that amended claim 1 is patentable over Tomonto. Because claims 2-4 and 6-10 depend from claim 1, they are also patentable for the same reasons as claim 1 and because they add significant elements to distinguish them further from the art.

### **Claim Rejections Under 35 U.S.C. §103**

Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Tomonto in view of Moore in U.S. Patent Application Pub. No. US 2004/0024444. For the reason set forth above, Applicants respectfully submit that amended claim 1 is patentable over Tomonto. Moore fails to overcome the deficiencies of Tomonto. Consequently,

Applicants respectfully submit that amended claim 1 is patentable over the combination of Tomonto and Moore, to the extent that such a combination is even possible. Because claim 5 depends from claim 1 it is also patentable for the same reasons as claim 1 and because it adds significant elements to distinguish it further from the art.

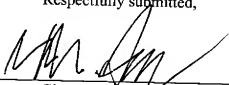
**Conclusion**

Reexamination and reconsideration are requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is also respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date:

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